



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

[REDACTED]

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**PRELIMINARY RECITALS**

Pursuant to a petition filed October 26, 2015, under Wis. Stat. § 49.45(5)(a), to review a decision by the Dane County Department of Human Services in regard to Medical Assistance (MA)/BadgerCare Plus (BCP), a hearing was held on November 25, 2015, at Madison, Wisconsin.

The issue for determination is whether the Department correctly discontinued the petitioner's BCP coverage effective September 1, 2015, due to excess income.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: [REDACTED] ES Spec.  
Dane County Department of Human Services  
1819 Aberg Avenue  
Suite D  
Madison, WI 53704-6343

**ADMINISTRATIVE LAW JUDGE:**

Nancy J. Gagnon (telephonically)  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Dane County.
2. Prior to September 2015, the petitioner was certified for BCP. On August 3, 2015, the petitioner reported the end of her employment at [REDACTED]. As the agency worker made the

appropriate entry, she noticed that employer [REDACTED] was reporting earnings for the petitioner. The [REDACTED] employment had not been reported by the petitioner. Accordingly, the Department requested earnings verification from [REDACTED]; the petitioner then brought in [REDACTED] paystubs and employer verification. The [REDACTED] employer verification declares that the petitioner works 35 hours weekly, at \$8.50 to \$11.90 an hour. *See*, Exhibit 2.

3. On August 20, 2015, the Department issued written notice to the petitioner advising that her BCP would be discontinued effective September 1, 2015. The basis for discontinuance was excess income.
4. The petitioner is married. By August 2015, the petitioner's husband received monthly unearned income of \$753. The petitioner had earned income of \$1,514.86, per paystubs. *See*, Exhibit 5. The petitioner moved and signed a new lease in June 2015, which did not bear her husband's name. She did not report her husband as being out of her household until September 11, 2015. Her income alone exceeds the BCP monthly income limit of \$980.83 for one person. Their income together exceeds the BCP income limit for a household of two persons of \$1,327.50.

### **DISCUSSION**

BadgerCare Plus is a Wisconsin variant of the MA program, for non-elderly, non-disabled Wisconsin residents. The program's nonfinancial eligibility standards were broadened effective April 1, 2014, to include adults who do not have minor children in their home. Wis. Stat. § 49.45(23); *BadgerCare Plus Eligibility Handbook (BCPEH)*, § 2.1, at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm> (viewed in December 2015). The petitioner meets the nonfinancial eligibility tests for the program.

The petitioner must also pass an income test. An eligible applicant cannot have adjusted gross income exceeding 100% of the federal poverty level (FPL). Wis. Stat. § 49.45(23)(a); *BCPEH*, § 16.1. The current 100% FPL amount is \$980.83 monthly for a household of one, and \$1,327.50 for a household of two persons. *Id.*, § 50.1.

The Department has calculated a gross income amount for the petitioner of \$1,514, based on submitted paystubs. From gross income, the Department is allowed to subtract only those income tax deductions listed on lines #23 - #35 of the federal 1040 tax return, subject to modifications listed at 42 C.F.R. § 435.603(e). The petitioner did not identify any of these adjusted gross income deductions as being applicable here. If the petitioner is a household of one, her income alone puts her over the income limit for a one-person household. If she is a household of two (based on the assumption that she will file a joint tax return with her husband), her income alone again makes her ineligible.

The petitioner argued that her hours had decreased in the fall of 2015. Her paystubs for October, a five weekly paycheck month, show total gross earnings of \$1,616.05. Even if these earnings were multiplied by 4/5 to eliminate the fifth paycheck, her resulting earnings of \$1,292 keep her over the limit for a household of one person. The addition her husband's income would continue to put her over the limit for a household of two.

### **CONCLUSIONS OF LAW**

1. The petitioner's household income exceeds the relevant limit for BCP eligibility.
2. The Department correctly discontinued the petitioner's BCP.

**THEREFORE, it is**

**ORDERED**

That the petition is dismissed.

**REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

**APPEAL TO COURT**

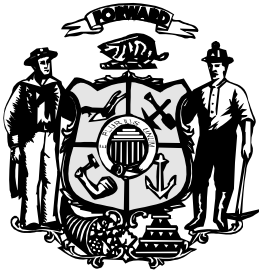
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 29th day of December, 2015

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\sNancy J. Gagnon  
Administrative Law Judge  
Division of Hearings and Appeals



## State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on December 29, 2015.

Dane County Department of Human Services  
Division of Health Care Access and Accountability